

Remarks

With the present amendment, claims 1 to 17, 19 to 25, and 27 and 28 are pending in this application. Claims 18 and 26 are canceled without prejudice.

The independent claims have been amended to delete the recitation of a *range* of polar solvent weights with an upper limit and instead, simply cite a lower end in the range. No new matter is believed to be added by this amendment.

In addition, all claims have been amended to delete any specific recitation of sorbitol. Nonetheless, as stated in earlier remarks to rejections, Applicants respectfully disagree with the examiner's position that sorbitol is not disclosed in the application. The examiner indicates on page 3 of the action that the dielectric constant limitation is disclosed, and apparently the examiner agrees that claims 17, 19 to 25, and 27 and 28, which recite dielectric constants are supported by the specification.

All of the claims as amended herein recite the presence of at least two fatty acids, as well. These amendments should obviate reinstatement of earlier rejections although such rejection was not made in the most recent action.

Also, although not specifically addressed in the action, Applicants note that C₇ fatty acids were disclosed in the specification. At page 4, line 8 of the specification, C₆ to C₁₄ "short to medium-chain fatty acids" were identified as having antimicrobial and germicidal activities. C₆ to C₁₂ fatty acids are also identified at page 5, lines 7 and 8 as possibly assisting the action of the hydrotrope by helping solublize longer fatty acid species in water to improve antimicrobial efficacy. Thus, one skilled in the art would have learned from the specification that C₆ and C₇ fatty acids demonstrated antimicrobial and germicidal activities, and that they may assist in solubilizing longer species of fatty acids in water. Certainly, these disclosures would have

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suggested to one skilled in the art to conduct an experiment a C₇ fatty acid to reduce the incidence of mastitis in cows.

Finally, the express omission of a fatty acid ester in an amount sufficient to have an antimicrobial effect is an appropriate negative limitation in a composition claim. The examiner has cited no legal authority supporting his contention that the subject of a negative limitation needs to be disclosed in the specification, as he contends at pages 2-3 of the action. Indeed, in *In re Dura*, 156 U.S.P.Q. 90, 94 (CCPA 1967), a negative limitation was held proper even when a positive expression would have been proper. Therefore, Applicants respectfully request that his rejection be withdrawn.

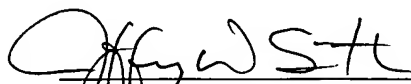
The above amendments and remarks should not be interpreted as acquiescing in the examiner's interpretation of the prior art or the scope of the claims prior to the amendment. Indeed, Applicants respectfully disagree with the examiner's position, but have made the amendments without prejudice to prosecution of those claims in a later application.

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Conclusion

For the foregoing reasons, Applicants respectfully submit that the remaining amended claims are in condition for allowance and that this case be passed to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey W. Smith", written over a horizontal line.

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